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Attorneys for Defendant
CITIBANK (SOUTH DAKOTA), N.A.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LAURA HOFFMAN, an individual, on
behalf of herself and all others similarly
situated,

Plaintiff,

v.

CITIBANK (SOUTH DAKOTA), N.A.,
and DOES 1 through 10, inclusive,

Defendants.

Case No. SACV-06-00571-AG-MLG(x)

The Honorable Andrew J. Guilford

**NOTICE OF FILING NOTICE
PURSUANT TO THE CLASS
ACTION FAIRNESS ACT OF 2005**

Action filed: May 5, 2006

1 **TO THE COURT, ALL PARTIES AND INTERESTED PERSONS:**

2 **PLEASE TAKE NOTICE THAT**, pursuant to the Court's request, as stated
3 during the Final Approval Hearing held by the Court on December 13, 2010 in the
4 above action, defendant Citibank (South Dakota), N.A. hereby files the notice
5 pursuant to the Class Action Fairness Act of 2005 (the "CAFA Notice") sent May 3,
6 2010, pursuant to 28 U.S.C. § 1715, in connection with the nationwide class action
7 settlement in the above action. A true and correct copy of the CAFA Notice with
8 accompanying exhibits is attached hereto as Exhibit A.

9 Dated: December 13, 2010

10 STROOCK & STROOCK & LAVAN LLP
11 JULIA B. STRICKLAND
12 DAVID W. MOON
13 MARCOS D. SASSO

14 By: /s/ Marcos D. Sasso
15 Marcos D. Sasso

16 Attorneys for Defendant
17 CITIBANK (SOUTH DAKOTA),
18 N.A.
19
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27
28

EXHIBIT A

STROOCK

By Federal Express

May 3, 2010

Julia B. Strickland
Direct Dial 310-556-5806
Fax 310-556-5959
jstrickland@stroock.com

To: Designated Officials Per 28 U.S.C. § 1715
(See attached Distribution List)

Re: CAFA Notice for the Proposed Settlement in:
Hoffman v. Citibank (South Dakota), N.A., Case No. SACV 06-571 AJG (MLGx)
United States District Court, Central District of California

Gentlemen:

Citibank (South Dakota), N.A. ("Citibank") hereby provides this notice pursuant to the Class Action Fairness Act of 2005 ("CAFA"). A proposed class action settlement in the form of a signed Settlement Agreement (the "Agreement") has been filed in the United States District Court for the Central District of California, the Honorable Andrew J. Guilford presiding, in conjunction with Plaintiff's Motion for Preliminary Approval. In accordance with its obligations under 28 U.S.C. § 1715(b), Citibank encloses and advises of the following:

1. As Exhibit 1, a copy of the original complaint, the amended complaint and the proposed second amended complaint filed in connection with the settlement and Agreement;
2. The preliminary approval hearing is currently scheduled for May 24, 2010 at 10:00 a.m. before the Honorable Andrew J. Guilford, Courtroom 10D, Ronald Reagan Federal Building and U.S. Courthouse, 411 West Fourth Street, Santa Ana, California 92701-4516;
3. As Exhibit 2, a copy of the Agreement and exhibits thereto, including copies of the proposed notices (attached as Exhibits B through D thereto) and claim form (attached as Exhibit F thereto);
4. No other settlement or agreement has been contemporaneously made between class counsel and counsel for Citibank;
5. No final judgment or notice of dismissal has been entered;

LA 51218751

Designated Officials Per 28 U.S.C. § 1715

(See attached Distribution List)

May 3, 2010

Page 2

6. As Exhibit 3, a chart setting forth a reasonable estimate, based upon Citibank's records, of the class member data required by 28 U.S.C. § 1715(b)(7)(B). Citibank advises that it is not feasible to provide the names of the settlement class members because of the volume of data and out of concern for the personal and financial privacy of the settlement class members. Note that the estimates are based on the proportion of all Citibank cardmembers with billing addresses in each state, and that these figures may either overstate or understate the true number of proposed settlement class members residing in each state; and
7. There have been no written judicial opinions relating to the materials described in items 3 through 5 above.

If you have questions about this notice, the lawsuit or the enclosed materials, or if you did not receive any of the above-listed materials, please contact counsel listed below.

Respectfully submitted,



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Attorneys for Citibank (South Dakota), N.A.

Enclosures

LA 51218751

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LA 51218751

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ORIGINAL

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAY 05 2008

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BY E. Blomberg
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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

LAURA HOFFMAN, an individual, on behalf
of herself and all others similarly situated,

Plaintiff,

vs.

CITIBANK (SOUTH DAKOTA), N.A., and
DOBS 1 through 10, inclusive,

Defendants.

Case No. 06 CC00091

CLASS ACTION

COMPLAINT FOR: (1) VIOLATION OF
THE CONSUMERS LEGAL REMEDIES
ACT (CAL. CIV. CODE §§ 1750, ET
SEQ.); AND (2) UNFAIR AND
DECEPTIVE BUSINESS PRACTICES
(CAL. BUS. & PROF. CODE §§ 17200, ET
SEQ.)

AFFIDAVIT OF LAURA HOFFMAN

JUDGE THIERRY PATRICK COLAW
DEPT. CX104

Plaintiff Laura Hoffman, on behalf of herself and all others similarly situated, alleges as
follows:

I. NATURE OF THE CASE

1. This is a class action on behalf of all California consumers who have or have had
credit card accounts with defendant Citibank (South Dakota), N.A. ("Citibank"), and whose
interest rates were *retroactively increased* by Citibank *without warning or advance notice*,
resulting in additional lump sum finance charges being *instantaneously imposed* at the time of
the increases.

1

Complaint; Hoffman Affidavit

CLASS ACTION QUESTIONNAIRE ISSUED BY THE COURT

HOFFMAN
CITYBANK SOUTH DAK01060036796
06CC00091C1 COMPLEX CASE FEE - PLAI 550.00
EB 06/01 05/08/2006 00:51 PAID CHK/CHKHOFFMAN
CITYBANK SOUTH DAK01060036796
06CC00091LF UNLIMITED CIV FILING; 0 320.00
EB 06/01 05/08/2006 00:51 PAID CHK/CHK

II. JURISDICTION AND PARTIES

2. Plaintiff Laura Hoffman is a resident of Orange County, California. Plaintiff is informed and believes and thereon alleges that Citibank is a national banking association which is duly authorized to do business in the State of California and does, in fact, transact business in the State of California. Jurisdiction is proper in this Court because Citibank has purposefully availed itself of the benefits and protections of the State of California and/or has had sufficient contact with this State such that maintenance of the action in this locale would be consistent with traditional notions of fair play and substantial justice.

III. GENERAL ALLEGATIONS

3. This case arises out of Citibank's business practice of reviewing its credit card accounts on a monthly basis, targeting selected cardholders for rate increases, and imposing such rate increases *retroactively*. Citibank implements this practice by waiting until the end of each monthly billing cycle before determining the interest rate to charge for the cycle just ended, and then backdating the effective date of its rate increases to the start of the billing cycle. Thus, customers whose rates are increased are unaware of the increases for at least a full month from the effective dates of the increases, at which point the customers are helpless to do anything about them. Citibank imposes these selective rate increases without warning or advance notice, based on a month-end evaluation process about which details are not disclosed or explained by Citibank to its cardmembers. As a result, many Citibank customers who, during a billing cycle, believed they were being charged at one rate suddenly find themselves, at the end of the billing cycle, being billed at a higher rate for that cycle, and being assessed far more than they had expected in finance charges for the month just ended.

4. Citibank's practice of retroactively increasing interest rates and finance charges without warning or advance notice has proven immensely profitable to Citibank, but is completely unfair to consumers. Because these increases are backdated by a whole month, customers cannot find out about them until at least one month's interest has been charged at the higher rate. Furthermore, in some cases these increases may go unnoticed for several months or indefinitely. For example, a cardmember with a \$10,000 balance whose interest rate had been at

1 7.99% for many months could suddenly find, upon reviewing a month-end billing statement, that
 2 Citibank had increased his rate to 24.99% for the billing cycle, resulting in the instantaneous
 3 imposition of an additional \$140.00 in finance charges.

4 5. In the above example, the rate increase is completely unfair, improper, and illegal
 5 in that it is unilaterally imposed without warning or advance notice, operates retroactively, and is
 6 based on secret criteria known only to Citibank. Furthermore, while Citibank represents that it
 7 calculates its finance charges by compounding interest on a daily basis, when it imposes a rate
 8 increase, it goes back and *recomputes the finance charges* that have already accrued to the
 9 account during the cycle.

10 6. By increasing the rate retroactively, Citibank creates an instantaneous lump sum
 11 finance charge that did not exist the moment before the increase, and thereby denies a customer
 12 the opportunity to pay off or transfer account balances to obtain a better rate of interest, or
 13 otherwise mitigate the impact of the rate increase. Such additional finance charges are in the
 14 nature of an illegal penalty. In effect, Citibank has carried out a scheme designed to deliberately
 15 cheat large number of consumers out of individually small sums of money.

16 7. As a result of the retroactive rate increases without warning or advance notice
 17 described above, Citibank wrongfully imposed unfair, unconscionable, and punitive interest rate
 18 increases, and additional finance charges in the form of illegal penalties, on thousands of
 19 customers' accounts, in a manner that denied them the ability to reject such increases or mitigate
 20 their impact.

21 **IV. CLASS ALLEGATIONS**

22 8. Plaintiff brings this action on behalf of herself and all others similarly situated
 23 (the "plaintiff class"), defined as follows:

24 All consumers with billing addresses in the State of California who have or have
 25 had credit card accounts with defendant Citibank (South Dakota), N.A.
 26 ("Citibank"), and whose interest rates charged on outstanding balances were
 27 retroactively increased by Citibank without warning or advance notice.

28 ///

1 9. This action has been brought and may properly be maintained as a class action,
2 satisfying the numerosity, commonality, typicality, adequacy, and superiority requirements for
3 class certification, because:

4 a) Individual joinder of class members is impracticable. Plaintiff is informed and
5 believes and thereon alleges that the class consists of at least thousands of persons.

6 b) Common questions of law and fact exist as to all members of the class that
7 predominate over any question that affects only individual class members. These common
8 questions of law and fact include, without limitation:

9 1) whether Citibank increased interest rates and finance charges for a
10 selected group of its cardholders who were identified through its month-end account reviews;

11 2) whether the interest rate increases and additional finance charges Citibank
12 imposed as a result of month-end account reviews were discretionary increases, based on criteria
13 that are kept strictly secret and known only to Citibank;

14 3) whether such interest rate increases and additional finance charges were
15 unilaterally imposed by Citibank without warning or advance notice;

16 4) whether such interest rate increases were imposed retroactively;

17 5) whether the manner in which Citibank imposed such rate and finance
18 charge increases denied cardholders the opportunity to avoid the impact of such increases by
19 paying off or transferring account balances, or otherwise mitigating the impact of the increases;

20 6) whether Citibank's retroactive interest rate increases and the resultant
21 additional finance charges constituted an illegal penalty;

22 7) whether Citibank's retroactive interest rate increases and the resultant
23 additional finance charges were unconscionable;

24 8) whether Citibank is liable for violation of the Consumers Legal Remedies
25 Act; and

26 9) whether Citibank is liable for unfair and deceptive business practices.

27 c) Plaintiff's claims are typical of the claims of plaintiff class members because
28 Plaintiff is a consumer who has or has had a credit card account with Citibank, whose interest

1 rates charged on outstanding balances were retroactively increased by Citibank without warning
2 or advance notice, resulting in additional lump sum finance charges being instantaneously
3 imposed. Plaintiff suffered the same type of damages in the form of excess interest and finance
4 charges that other plaintiff class members suffered. For example, for the month ending
5 September 20, 2005, Citibank assessed interest charges for purchases at a rate of 15.9% against
6 Plaintiff. Plaintiff's month-end billing statement dated September 20, 2005, provided no
7 indication that the rate would change for the following billing cycle. Throughout the following
8 month, Plaintiff reasonably believed that the rate of interest she was being charged was 15.9%.
9 However, as a result of Citibank's month-end review of her account on or about October 19,
10 2005, Citibank decided to increase her interest rate for purchases to 30.74%, with an effective
11 date retroactive to September 20, 2005. Citibank provided no advance notice of the backdated
12 interest rate increase, which resulted in an additional finance charge of approximately \$68.00 for
13 purchases being instantaneously imposed for the billing cycle ended October 19, 2005. This is
14 an unfair and deceptive billing practice.

15 d) Plaintiff is an adequate representative of the plaintiff class because she shares the
16 same interests as all plaintiff class members and because her claims and losses in terms of
17 backdated interest rate and finance charge increases without warning or advance notice are
18 typical of those of the plaintiff class members. Plaintiff has retained competent counsel who are
19 experienced in class action litigation and who will fairly and adequately protect the interests of
20 plaintiff class members.

21 e) A class action is superior to other available methods for the fair and efficient
22 adjudication of this litigation, since individual joinder of all consumers with billing addresses in
23 the State of California who have or have had credit card accounts with Citibank, and whose
24 interest rates and finance charges were increased in the circumstances described herein, is
25 impracticable. Such consumers' losses are modest in relation to the expense and burden of
26 individual prosecution of the litigation necessitated by the defendant's wrongful conduct. It
27 would be virtually impossible for plaintiff class members to efficiently redress their wrongs
28 individually. Even if all plaintiff class members themselves could afford such individual

1 litigation, the Court system would benefit from a class action. Individualized litigation would
 2 present the potential for inconsistent or contradictory judgments. Individualized litigation would
 3 also magnify the delay and expense to all parties and to the Court system presented by the issues
 4 of the case. By contrast, the class action device presents far fewer management difficulties and
 5 provides the benefit of comprehensive supervision by a single Court, as well as economy of scale
 6 and expense.

7 f) Citibank has acted or refused to act on grounds generally applicable to all the
 8 members of the class, thereby making final injunctive relief or declaratory relief concerning the
 9 class as a whole appropriate.

10 **FIRST CAUSE OF ACTION**
 11 **FOR VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT**

12 **(Cal. Civ. Code §§ 1750, et seq.)**

13 **(Asserted by Plaintiff, on behalf of all plaintiff class members, against all defendants)**

14 10. Plaintiff repeats, reiterates, and realleges each and every allegation contained in
 15 the preceding paragraphs of this complaint.

16 11. Citibank's actions toward Plaintiff and plaintiff class members, as set forth above,
 17 constitute unfair and deceptive acts or practices in violation of applicable law, including the
 18 Consumers Legal Remedies Act, California Civil Code sections 1770(a)(5) and (19), which
 19 provide, in pertinent part, that "the following unfair methods of competition and unfair or
 20 deceptive acts or practices undertaken by any person in a transaction intended to result or which
 21 results in the sale or lease of goods or services to any consumer are unlawful: ... Representing
 22 that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or
 23 quantities which they do not have... [and] ... Inserting an unconscionable provision in the
 24 contract...."

25 12. In particular, the following acts, among others, constitute unfair and deceptive
 26 acts and practices:

27 a) Citibank's contractual provisions, which purport to allow retroactive increases of
 28 interest rates and finance charges without warning or advance notice, are unconscionable.

1 The inclusion of an unconscionable provision in a contract is, by definition, a deceptive
2 trade practice under California Civil Code section 1770(a)(19).

3 b) Citibank sends its customers monthly billing statements which purport to
4 represent the interest rates currently being charged. However, for those customers who
5 subsequently receive a backdated rate increase, this representation is false. Citibank's
6 false representation as to the characteristics of its services (namely, the APR interest
7 rates) is, by definition, a deceptive trade practice under California Civil Code section
8 1770(a)(5).

9 c) Citibank's contractual provisions purporting to allow the creation of
10 instantaneous lump sum finance charges are unconscionable and in the nature of an
11 illegal penalty. This is, by definition, a deceptive trade practice under California Civil
12 Code section 1770(a)(19).

13 d) Citibank represents that it calculates its finance charges throughout the month by
14 compounding interest on a daily basis. These representations are false. In the event of a
15 month-end rate increase, Citibank goes back to the start of the month and recomputes
16 these charges using the higher rates. This is, by definition, a deceptive trade practice
17 under California Civil Code section 1770(a)(5).

18 13. Plaintiff is informed and believes and thereon alleges that the above described
19 unfair and deceptive practices were intentionally adopted by Citibank in order to mislead its
20 customers as to the interest rates and finance charges they were being charged; to effectively
21 deny cardmembers the ability to mitigate the impact of Citibank's retroactive increases resulting
22 from month-end account reviews; to permit the imposition of illegal penalties; and to enhance
23 defendant's income through the imposition of unfair retroactive interest rate increases and
24 additional finance charges.

25 14. The above practices constituted a scheme by Citibank to deliberately cheat a large
26 number of customers out of individually small sums of money. Plaintiff therefore seeks an order
27 under Civil Code § 1780(a)(2) enjoining defendant from employing the practices described in
28 this complaint against any California resident.

1 15. Plaintiff does not at present seek damages against Citibank under this cause of
2 action but intends to file an amended complaint in due course under Civil Code § 1782(d), also
3 seeking damages, restitution and punitive damages under Civil Code § 1780(a)(1), (3) and (4).

4 **SECOND CAUSE OF ACTION**

5 **FOR UNFAIR AND DECEPTIVE BUSINESS PRACTICES**

6 **(Cal. Bus. & Prof. Code §§ 17200, et seq.)**

7 (Asserted by Plaintiff, on behalf of all plaintiff class members, against all defendants)

8 16. Plaintiff repeats, reiterates, and realleges each and every allegation contained in
9 the preceding paragraphs of this complaint.

10 17. Defendant's actions, as set forth above, are immoral, unethical, oppressive,
11 unscrupulous and substantially injurious to consumers, and constitute unfair and deceptive
12 business practices under California Business and Professions Code §§ 17200, et seq. In
13 particular, Defendant's actions (a) in reviewing its credit card accounts on a monthly basis, (b)
14 targeting selected cardholders for rate increases, (c) imposing such increases *retroactively*,
15 without warning or advance notice, (d) recalculating the interest already accrued on a daily basis
16 using a higher rate, (e) creating instantaneous additional finance charges while preventing a
17 cardmember from doing anything about it, and (f) using a month-end evaluation process that
18 Citibank does not disclose or explain to its cardmembers, are unfair and deceptive business
19 practices.

20 18. As an example of the misleading nature of Defendant's actions, consider a
21 customer who begins his April billing cycle with a 7.99% rate of interest. Assuming Citibank
22 makes no change in the rate at its month-end review, the customer is charged exactly the 7.99%
23 he expects to be charged. However, if Citibank decides, based on account activity during the
24 April billing cycle, to increase the rate to 25.99%, and backdates the increase to the beginning of
25 the April cycle, an additional lump sum finance charge is created the moment Citibank applies
26 the increased rate. As a result, the customer ends up being charged a higher rate of interest and
27 substantially greater finance charges than he was led to believe he would incur throughout the
28 April billing cycle. This is an unfair and deceptive business practice, since the customer would

1 have no way of knowing that Citibank would increase his rates until after the April month-end
2 statement is issued, by which time it would be too late for him to do anything about it.

3 19. Plaintiff and plaintiff class members have suffered injury in fact and have lost
4 money as a result of such unfair and deceptive business practices.

5 20. Unless Defendant is enjoined from continuing to engage in the unfair and
6 deceptive business acts and practices as described herein, members of the class will continue to
7 be damaged thereby.

8 21. Defendant, through its unfair and deceptive business practices, has acquired
9 money from members of the class in terms of excess finance charges. Thus, Plaintiff and
10 members of the Class request that this Court restore this money to them, and enjoin Defendant
11 from continuing to violate Business & Professions Code §§ 17200, et seq., as discussed above.

12 22. Such conduct is ongoing and continues to this date. Plaintiff and plaintiff class
13 members are therefore entitled to the relief described below.

14 WHEREFORE, Plaintiff demands judgment on her behalf and on behalf of the Class as
15 follows:

- 16 1. On the second cause of action, an award of restitution in an amount to be
17 determined at trial.
- 18 2. On the first and second causes of action, for injunctive relief.
- 19 3. On all causes of action, the costs of suit, including, but not limited to, attorneys'
20 fees.
- 21 4. Such other and further relief as may be just and proper.

22
23 DATED: May 1, 2006

Respectfully Submitted,

STRANGE & CARPENTER

By: 

Brian R. Strange
Gretchen Carpenter
Attorneys for Plaintiff Laura Hoffman

AFFIDAVIT OF LAURA HOFFMAN

1
2 1. I, Laura Hoffman, submit this affidavit pursuant to California Civil Code
3 section 1780(a) of the *Consumers Legal Remedies Act* (Cal. Civil Code §§ 1750, et seq.)
4 and declare the following.

5 2. I am and at all relevant times have been a resident of Orange County,
6 California, and am the named plaintiff in the Complaint filed herewith.

7 3. I am informed and believe that defendant Citibank (South Dakota), N.A.
8 does business in Orange County. Moreover, I have resided in Orange County at all
9 relevant times, and therefore, the transactions at issue in this case occurred in Orange
10 County.

11 I declare under penalty of perjury under the laws of the State of California that the
12 foregoing is true and correct. Executed this 1st day of April, 2006, at Irvine,
13 California.

14
15 
16 Laura Hoffman

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA -- SOUTHERN DIVISION

LAURA HOFFMAN, an individual, on)
behalf of herself and all others similarly)
situated,

Plaintiff,

vs.

CITIBANK (SOUTH DAKOTA),)
N.A., and DOES 1 through 10,)
inclusive,

Defendants.

Case No. SACV-06-571-AG(MLGx)

CLASS ACTION

**FIRST AMENDED COMPLAINT
FOR: (1) VIOLATION OF THE
CONSUMERS LEGAL REMEDIES
ACT (CAL. CIV. CODE §§ 1750, ET
SEQ.); AND (2) UNFAIR AND
DECEPTIVE BUSINESS
PRACTICES (CAL. BUS. & PROF.
CODE §§ 17200, ET SEQ.)**

Assigned to the Honorable Andrew J.
Guilford, Courtroom 10D

Action Filed: May 5, 2006
Trial Date: Not set

Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure and
California Civil Code Section 1782(d), Plaintiff Laura Hoffman, on behalf of
herself and all others similarly situated, alleges in this First Amended Complaint as
follows:

I. NATURE OF THE CASE

1. This is a class action on behalf of all consumers with billing addresses in the State of California who have or have had credit card accounts with defendant Citibank (South Dakota), N.A. ("Citibank"), and whose interest rates were *retroactively increased without warning or advance notice*, resulting in additional lump sum finance charges being unilaterally imposed. Citibank's actions, as alleged herein, are brought under California law and allege a violation of California's Consumers Legal Remedies Act (Cal. Civ. Code §§ 1750, *et seq.*) and California's Unfair Competition Law (Cal. Bus. and Prof. Code §§ 17200, *et seq.*). Under California law, such additional lump sum finance charges constitute an illegal penalty and a violation of California's consumer protection statutes. Defendant removed this case based on its contention that this Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1332(d)(2). This Court ruled that it has jurisdiction pursuant to 28 U.S.C. § 1332(d)(2).

II. JURISDICTION AND PARTIES

2. Plaintiff Laura Hoffman is a resident of Orange County, California. Plaintiff is informed and believes and thereon alleges that Citibank is a national banking association which is duly authorized to do business in the State of California and does, in fact, transact business in the State of California. Jurisdiction is proper in this Court because Citibank has purposefully availed itself of the benefits and protections of the State of California and/or has had sufficient contact with this State such that maintenance of the action in this locale would be consistent with traditional notions of fair play and substantial justice.

III. GENERAL ALLEGATIONS

3. This case arises out of Citibank's business practice of reviewing its credit card accounts during its end-of-billing-cycle review process, targeting selected cardholders for rate increases based on its proprietary credit-risk analysis, which is included as part of such review, and selectively imposing *backdated* rate

1 increases on certain of its cardholders as determined by such review. Citibank
2 implements this practice by conducting an end-of-billing-cycle review of credit
3 agency reports and account activity pertinent to the account, making a decision
4 whether or not to increase the interest rates and finance charges for the billing
5 cycle just ended, and, in the event it decides to impose a rate increase, *backdating*
6 *the effective date of the rate increases* it imposes to the first day of the billing cycle
7 just ended and *recalculating finance charges* at the newly imposed, higher rate. As
8 a result of this practice, customers whose rates have been increased as a result of
9 Citibank's end-of-billing-cycle review process are totally unaware of the higher
10 interest rates and finance charges for at least a full month from the effective date of
11 such increases, at which point they are helpless to do anything about them.

12 4. Citibank imposes these selective rate increases without warning or
13 advance notice, based on a highly secret and confidential methodology which
14 includes specific formulas whose details are not made public, not disclosed to its
15 cardholders, not included in its Cardmember Agreements, and not otherwise
16 explained by Citibank to its cardmembers. As a result of such backdated rate
17 increases, many Citibank customers who reasonably believed, throughout a billing
18 cycle, that they were being charged at the agreed upon rate shown on their previous
19 billing statement, suddenly find themselves billed at a higher rate and assessed
20 more finance charges than they expected for the billing cycle just ended.

21 5. Citibank's practice of *retroactively* increasing interest rates and
22 finance charges *without warning or advance notice* has proven immensely
23 profitable to Citibank, but is completely unfair to consumers. Because these
24 increases are *backdated* by a whole month, customers cannot find out about them
25 until at least one month's interest has been assessed at a new, higher rate. For
26 example, a cardmember with a \$10,000 balance whose interest rate was 7.99% for
27 the past several months could suddenly find, upon reviewing a new billing
28 statement, that Citibank had increased his or her rate to 24.99% for the billing

1 cycle just ended, resulting in the instantaneous imposition of an additional \$140.00
2 in finance charges for the billing cycle.

3 6. Such backdated rate increases are completely unfair, improper, and
4 illegal, in that they are unilaterally imposed *without warning or advance notice*,
5 operate *retroactively*, and are based on *secret formulas* known only to Citibank.
6 Furthermore, while Citibank represents in its Cardmember Agreement that it
7 calculates its finance charges by compounding interest on a daily basis, the
8 imposition of a retroactive rate increase results in Citibank effectively *recomputing*
9 *the finance charges* that have already accrued to the account during the cycle just
10 ended at a higher rate, instantaneously creating an additional lump sum of finance
11 charges that did not exist the moment before the rate increase.

12 7. By increasing the rate of interest at the end of a billing cycle but
13 backdating the effective date of the increase to the beginning of the cycle, Citibank
14 not only creates an instantaneous lump sum finance charge that did not exist the
15 moment before the increase, it also denies a customer the opportunity to pay off or
16 transfer account balances to obtain a better rate of interest, or otherwise mitigate
17 the impact of the rate increase. Such additional finance charges are in the nature of
18 an illegal penalty. In effect, Citibank has carried out a scheme designed to
19 deliberately cheat a large number of consumers out of individually small sums of
20 money.

21 8. As a result of the *backdated rate increases without warning or*
22 *advance notice* described above, Citibank wrongfully imposed unfair,
23 unconscionable, and punitive rate increases and finance charges in the nature of
24 illegal penalties, on thousands of customers' accounts, in a manner that
25 intentionally denied them the ability to reject such increases or mitigate their
26 impact.

27 ///

28 ///

1 **IV. CLASS ALLEGATIONS**

2 9. Plaintiff brings this action on behalf of herself and all others similarly
3 situated (the "plaintiff class"), pursuant to Rule 23(a) and (b)(3) of the Federal
4 Rules of Civil Procedure, Rule 23(a) and (b)(2) of the Federal Rules of Civil
5 Procedure, or other applicable law, defined as follows:

6 All consumers with billing addresses in the State of California who
7 have or have had credit card accounts with defendant Citibank (South
8 Dakota), N.A. ("Citibank"), and whose interest rates charged on
9 outstanding balances were retroactively increased by Citibank without
10 warning or advance notice.

11 10. This action has been brought and may properly be maintained as a
12 class action, satisfying the numerosity, commonality, typicality, adequacy, and
13 superiority requirements of Rules 23(a) and 23(b)(3) of the Federal Rules of Civil
14 Procedure or other applicable law, because:

15 a) Individual joinder of class members is impracticable. Plaintiff is
16 informed and believes and thereon alleges that the class consists of at least
17 thousands of persons.

18 b) Common questions of law and fact exist as to all members of the class
19 that predominate over any question that affects only individual class members.
20 These common questions of law and fact include, without limitation:

21 1) whether Citibank increased interest rates and finance charges
22 for a selected group of its cardholders who were identified through its end-of-
23 billing-cycle account reviews;

24 2) whether the interest rate increases and additional finance
25 charges Citibank imposed as a result of its end-of-billing-cycle account reviews
26 were based on a methodology and set of formulas whose details are not made
27 public, disclosed to its cardholders, included in its Cardmember Agreements, or
28 otherwise explained by Citibank to its cardmembers;

1 3) whether such interest rate increases and additional finance
2 charges were unilaterally imposed by Citibank without warning or advance notice;

3 4) whether the effective dates of such interest rate increases were
4 backdated to the beginning of the billing cycle for which they were imposed;

5 5) whether the manner in which Citibank imposed such rate and
6 finance charge increases denied cardholders the opportunity to avoid the impact of
7 such increases by paying off or transferring account balances, or otherwise
8 mitigating the impact of the increases;

9 6) whether Citibank's retroactive interest rate increases and the
10 resultant additional finance charges as described above constituted an illegal
11 penalty;

12 7) whether Citibank's retroactive interest rate increases and the
13 resultant additional finance charges were unconscionable;

14 8) whether Citibank is liable for violation of the Consumers Legal
15 Remedies Act; and

16 9) whether Citibank is liable for unfair and deceptive business
17 practices.

18 c) Plaintiff's claims are typical of the claims of plaintiff class members
19 because Plaintiff is a consumer with a billing address in the State of California who
20 has or has had a credit card account with Citibank, and whose interest rates
21 charged on outstanding balances were *retroactively* increased by Citibank *without*
22 *warning or advance notice*, resulting in additional lump sum finance charges being
23 instantaneously imposed. Plaintiff suffered the same type of damages in the form
24 of excess interest and finance charges that other plaintiff class members suffered.
25 Specifically, for the billing period ending September 20, 2005, Citibank assessed
26 interest charges for purchases at a rate of 15.9% against Plaintiff. Plaintiff's billing
27 statement dated September 20, 2005 provided no indication that the rate would
28 change for the following billing cycle. However, for the following billing cycle

1 ending October 19, 2005, as a result of Citibank's end-of-billing-cycle review
2 process, Citibank decided to increase Plaintiff's interest rate for purchases to
3 30.74%. This new, higher rate first appeared on Plaintiff's billing statement dated
4 October 19, 2005, but with an effective date for the increase backdated to
5 September 21, 2005. Citibank provided no advance notice of the backdated
6 interest rate increase prior to its effective date of September 21, 2005, which
7 resulted in additional lump sum finance charges of approximately \$68.00 being
8 created for the billing cycle ending October 19, 2005 at the moment the rate
9 increase was imposed. This is an unfair and deceptive billing practice.

10 d) Plaintiff is an adequate representative of the plaintiff class because she
11 shares the same interests as all plaintiff class members and because her claims and
12 losses in terms of backdated interest rate and finance charge increases without
13 warning or advance notice are typical of those of the plaintiff class members.
14 Plaintiff has retained competent counsel who are experienced in class action
15 litigation and who will fairly and adequately protect the interests of plaintiff class
16 members.

17 e) A class action is superior to other available methods for the fair and
18 efficient adjudication of this litigation, since individual joinder of all consumers
19 with billing addresses in the State of California who have or have had credit card
20 accounts with Citibank, and whose interest rates and finance charges were
21 increased in the circumstances described herein, is impracticable. Such
22 consumers' losses are modest in relation to the expense and burden of individual
23 prosecution of the litigation necessitated by the defendant's wrongful conduct. It
24 would be virtually impossible for plaintiff class members to efficiently redress
25 their wrongs individually. Even if all plaintiff class members themselves could
26 afford such individual litigation, the Court system would benefit from a class
27 action. Individualized litigation would present the potential for inconsistent or
28 contradictory judgments. Individualized litigation would also magnify the delay

1 and expense to all parties and to the Court system presented by the issues of the
 2 case.. By contrast, the class action device presents far fewer management
 3 difficulties and provides the benefit of comprehensive supervision by a single
 4 Court, as well as economy of scale and expense.

5 f) Citibank has acted on grounds generally applicable to all the members
 6 of the class, thereby also making final injunctive relief or declaratory relief
 7 concerning the class as a whole appropriate, pursuant to Federal Rules of Civil
 8 Procedure, Rule 23(b)(2) or other applicable law.

9 11. Plaintiff proposes that notice of this class action be provided by
 10 individual mailings to plaintiff class members and/or by publication in national
 11 publications.

12 **FIRST CAUSE OF ACTION**
 13 **FOR VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT**

14 **(Cal. Civ. Code §§ 1750, *et seq.*)**

15 **(Asserted by Plaintiff, on behalf of all plaintiff class members, against all**
 16 **defendants)**

17 12. Plaintiff repeats, reiterates, and realleges each and every allegation
 18 contained in the preceding paragraphs of this complaint.

19 13. Citibank's actions toward Plaintiff and plaintiff class members, as set
 20 forth above, constitute unfair and deceptive acts or practices in violation of
 21 applicable law, including the Consumers Legal Remedies Act, California Civil
 22 Code sections 1770(a)(5) and (19), which provide, in pertinent part, that "the
 23 following unfair methods of competition and unfair or deceptive acts or practices
 24 undertaken by any person in a transaction intended to result or which results in the
 25 sale or lease of goods or services to any consumer are unlawful: ... Representing
 26 that goods or services have sponsorship, approval, characteristics, ingredients,
 27 uses, benefits, or quantities which they do not have... [and] ... Inserting an
 28 unconscionable provision in the contract...."

1 14. In particular, the following acts, among others, constitute unfair and
2 deceptive acts and practices:

3 a) Citibank's contractual provisions, which purport to allow retroactive
4 increases of interest rates and finance charges without warning or advance
5 notice, are unconscionable. The inclusion of an unconscionable provision in
6 a contract is, by definition, a deceptive trade practice under California Civil
7 Code section 1770(a)(19).

8 b) Citibank sends its customers monthly billing statements which purport
9 to represent the interest rates currently being charged as of the statement
10 dates. However, for those customers who subsequently receive a backdated
11 rate increase, this representation is false. Citibank thus falsely represents the
12 characteristics of its services, which is, by definition, a deceptive trade
13 practice under California Civil Code section 1770(a)(5).

14 c) Citibank's contractual provisions purporting to allow the creation of
15 instantaneous lump sum finance charges as a result of an unannounced rate
16 increase are unconscionable and in the nature of an illegal penalty. This is,
17 by definition, a deceptive trade practice under California Civil Code section
18 1770(a)(19).

19 d) Citibank represents that it calculates its finance charges throughout
20 the month by compounding interest on a daily basis. These representations
21 are false for class members. In the event of an end-of-billing-cycle rate
22 increase, Citibank backdates the rate increase and recomputes these finance
23 charges using the higher rates. This is, by definition, a deceptive trade
24 practice under California Civil Code section 1770(a)(5).

25 15. Plaintiff is informed and believes and thereon alleges that the above
26 described unfair and deceptive practices were willfully and intentionally adopted
27 by Citibank in order to mislead its customers as to the interest rates and finance
28 charges they were being charged; to effectively deny cardmembers the ability to

1 mitigate the impact of Citibank's backdated rate increases from its end-of-billing-
 2 cycle account reviews; to permit the imposition of illegal penalties; and to enhance
 3 defendant's income through the imposition of unfair retroactive interest rate and
 4 finance charge increases.

5 16. The above practices constituted a scheme by Citibank to deliberately
 6 cheat a large number of customers out of individually small sums of money.
 7 Plaintiff therefore seeks an order under Civil Code § 1780(a)(2) enjoining
 8 defendant from employing the practices described in this complaint against any
 9 California resident.

10 17. Further, as a direct and proximate result of the above-described
 11 deceptive practices, plaintiff and members of the plaintiff class have sustained
 12 damages in an amount to be proven at trial.

13 18. Plaintiff served her initial complaint on Defendant on May 22, 2006.
 14 In addition, on May 5, 2006, plaintiff provided defendant with written notice of her
 15 and the class's claims, via U.S. certified mail, return receipt requested, and
 16 demanded that, within 30 days, Defendant correct, repair, replace or otherwise
 17 rectify the deceptive practices complained of herein for the entire class pursuant to
 18 Civil Code § 1770. Defendant failed to do so or agree to do so. Therefore,
 19 plaintiff now seeks damages for such deceptive practices pursuant to Civil Code §
 20 1782.

21 **SECOND CAUSE OF ACTION**

22 **FOR UNFAIR AND DECEPTIVE BUSINESS PRACTICES**

23 **(Cal. Bus. & Prof. Code §§ 17200, et seq.)**

24 **(Asserted by Plaintiff, on behalf of all plaintiff class members, against all**
 25 **defendants)**

26 19. Plaintiff repeats, reiterates, and realleges each and every allegation
 27 contained in the preceding paragraphs of this complaint.

28 ///

1 20. Defendant's actions, as set forth above, are immoral, unethical,
2 oppressive, unscrupulous and substantially injurious to consumers, and constitute
3 unfair and deceptive business practices under California Business and Professions
4 Code §§ 17200, et seq. In particular, Defendant's actions in (a) conducting end-of-
5 billing-cycle account reviews, (b) targeting selected cardholders for rate increases,
6 (c) imposing such increases *retroactively*, without warning or advance notice, (d)
7 recalculating the interest already accrued on a daily basis using a higher rate, (e)
8 creating instantaneous additional finance charges while preventing a cardmember
9 from doing anything about it, and (f) using an end-of-billing-cycle review process
10 that Citibank does not disclose or explain to its cardmembers, are unfair and
11 deceptive business practices.

12 21. As an example of the misleading nature of Defendant's actions,
13 consider a customer who begins his April billing cycle with a 7.99% rate of
14 interest. Assuming Citibank makes no change in the rate at its end-of-billing-cycle
15 account review, the customer is charged exactly the 7.99% he expects to be
16 charged. However, if Citibank decides, based on account activity during the April
17 billing cycle, to increase the rate to 25.99%, and backdates the increase to the
18 beginning of the April cycle, an additional lump sum finance charge is created the
19 moment Citibank applies the increased rate. As a result, the customer ends up
20 being charged a higher rate of interest and substantially greater finance charges
21 than he was led to believe he would incur throughout the April billing cycle. This
22 is an unfair and deceptive business practice, since the customer would have no way
23 of knowing that Citibank would increase his rates until after the April statement is
24 issued, by which time it would be too late for him to do anything about it.

25 22. Plaintiff and plaintiff class members have suffered injury in fact and
26 have lost money as a result of such unfair and deceptive business practices.

27 23. Unless Defendant is enjoined from continuing to engage in the unfair
28 and deceptive business acts and practices as described herein, members of the class

1 will continue to be damaged thereby.

2 24. Defendant, through its unfair and deceptive business practices, has
3 acquired money from members of the class in terms of excess interest and finance
4 charges. Thus, Plaintiff and members of the Class request that this Court restore
5 this money to them, and enjoin Defendant from continuing to violate Business &
6 Professions Code §§ 17200, et seq., as discussed above.

7 25. Such conduct is ongoing and continues to this date. Plaintiff and
8 plaintiff class members are therefore entitled to the relief described below.

9 **WHEREFORE**, Plaintiff demands judgment on her behalf and on behalf of
10 the Class as follows:

11 1. On the first cause of action, an award of damages in an amount to be
12 determined at trial.

13 2. On the second cause of action, an award of restitution and/or
14 disgorgement in an amount to be determined at trial.

15 3. On the first and second causes of action, for injunctive relief.

16 4. On all causes of action, the costs of suit, including, but not limited to,
17 attorneys' fees.

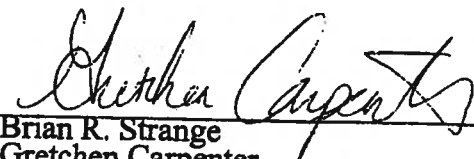
18 5. Such other and further relief as may be just and proper.

19 DATED: October 11, 2006

Respectfully Submitted,

STRANGE & CARPENTER

21
22
23 By:


Brian R. Strange
Gretchen Carpenter
Attorneys for Plaintiff Laura Hoffman

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is:

12100 Wilshire Boulevard, Suite 1900
Los Angeles, California 90025

On October 12, 2006, I served the forgoing document, described: **FIRST AMENDED COMPLAINT FOR: (1) VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT (CAL. CIV. CODE §§ 1750, ET SEQ.); AND (2) UNFAIR AND DECEPTIVE BUSINESS PRACTICES (CAL. BUS. & PROF. CODE §§ 17200, ET SEQ.)**

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

Andrew W. Moritz, Esq.
Stroock & Stroock & Lavan LLP
2029 Century Park East
Los Angeles, California 90067

Counsel for Defendant

Barry L. Kramer, Esq.
LAW OFFICES OF BARRY L. KRAMER
11111 Santa Monica Blvd., Suite 1860
Los Angeles, CA 90025-3352

Co-Counsel for Plaintiff

☒ **VIA U.S. MAIL**
☐ **VIA FEDERAL EXPRESS**

☐ I deposited such an envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

☒ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY PERSONAL SERVICE**

I delivered such envelope by hand to the addressee.
Executed on October 12, 2006, at Los Angeles,

☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


Jill Hood

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3 Law Offices of Barry L. Kramer
4 12428 Promontory Road
5 Los Angeles, California 90049
6 Telephone: (310) 440-9761

7 Attorneys for Plaintiff Laura Hoffman

8
9 **UNITED STATES DISTRICT COURT**

10 **CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**

11 LAURA HOFFMAN, an individual, on)
12 behalf of herself and all others)
13 similarly situated,)

14 Plaintiff,

15 vs.

16 CITIBANK (SOUTH DAKOTA),
17 N.A., and DOES 1 through 10,
18 inclusive,

19 Defendants.

Case No. SACV-06-571-AG(MLGx)

CLASS ACTION

**[PROPOSED]
SECOND AMENDED COMPLAINT
FOR: (1) VIOLATION OF TRUTH-
IN-LENDING REGULATIONS (12
C.F.R. § 226.9(c)); (2) VIOLATION
OF STATE CONSUMER
PROTECTION LAWS**

Assigned to the Honorable Andrew J.
Guilford, Courtroom 10D

Action Filed: May 5, 2006
Trial Date: Not set

20
21
22 Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, Plaintiff
23 Laura Hoffman, on behalf of herself and all others similarly situated, alleges in
24 this Second Amended Complaint as follows:

25
26 **I. NATURE OF THE CASE**

27 1. This is a class action on behalf of all customers of Citibank (South
28 Dakota), N.A. or its predecessor Citibank USA, National Association

1 (collectively, "Citibank") who, between May 5, 2002 and the present, had a credit
2 card account with Citibank and who paid periodic finance charges that were
3 assessed from the beginning of a billing period in which the periodic rate was
4 increased as a result of a default or delinquency that occurred before August 20,
5 2009. These *retroactive increases without warning or advance notice* resulted in
6 additional lump sum finance charges being unilaterally imposed. Such additional
7 lump sum finance charges constitute an illegal penalty. This Court has jurisdiction
8 pursuant to 28 U.S.C. §§ 1331 and 1332(d)(2).
9

10 **II. JURISDICTION AND PARTIES**

11 2. Plaintiff Laura Hoffman is a resident of Orange County, California.
12 Plaintiff is informed and believes and thereon alleges that Citibank is a national
13 banking association based in South Dakota which is duly authorized to do
14 business in the Central District of California and does, in fact, transact business in
15 this District. Venue is proper in this District because a substantial part of the
16 events giving rise to the claims occurred in this District.
17

18 **III. GENERAL ALLEGATIONS**

19 3. This case arises out of Citibank's business practice of reviewing its
20 delinquent credit card accounts during its end-of-billing-cycle review process,
21 targeting selected cardholders for rate increases as a result of such review, and
22 selectively imposing *backdated* rate increases on certain of its existing
23 cardholders. Citibank implements this practice by conducting its end-of-billing-
24 cycle review of credit agency reports and account activity pertinent to the account,
25 making its decision whether or not to increase the interest rates and finance
26 charges for the billing cycle just ended, and in the event it decides to impose a rate
27 increase, *backdating the effective date of its rate increases* to the first day of the
28 billing cycle just ended and *recalculating finance charges* at such higher rate.